

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 97-505

MAINE PUBLIC UTILITIES COMMISSION,
Investigation of Total Element Long-Run
Incremental Cost (TELRIC) Studies and
Pricing of Unbundled Network Elements

ORDER

October 21, 2002

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we grant Verizon's request to amend the TELRIC rates set in our March 8, 2002 Order in this case.

II. BACKGROUND

On February 12, 2002 and March 8, 2002, we issued Orders in this proceeding adopting TELRIC rates. Attached to both Orders were spreadsheets listing the various rates that were set. As explained in the March 8, 2002 Order, after issuing the February 12th Order, we found it necessary to revise several of the rates adopted in the February 12th Order due to errors in their calculation. We also adopted a fourth set of rates on March 8th relating to interconnection services. On March 18, 2002, the Hearing Examiner issued a procedural order stating that we had reviewed a letter by Verizon concerning calculation errors and requested that parties notify the Commission by March 20, 2002, if there were additional errors. We did not receive any notice of errors. Thus, on March 20, 2002, we issued a third Order in this case which corrected several calculation errors in the rates attached to the March 8th Order.

On September 16, 2002, Verizon sent the Commission a letter stating that it had uncovered additional calculation errors in the TELRIC rates as well as identified several omissions in rates. Verizon proposes to correct these rates and asserts that such corrections are non-substantive and non-controversial in nature.

On September 23, 2002, the Hearing Examiner issued a procedural order inviting parties to comment on Verizon's proposed rates. On October 3, 2002, the CLEC Coalition (Mid-Maine TelPlus, Oxford Networks, and Revolution Networks) filed comments objecting to Verizon's "attempt to unilaterally implement changes in TELRIC rates..." The Coalition pointed out that Verizon had been given several opportunities to correct any errors in the rates and that the changes were more than ministerial, clerical errors.

On October 9, 2002, Verizon responded to the Coalition comments by claiming that neither the Coalition nor any other party had come forward with any facts to corroborate any intention on behalf of the Commission to set rates different from those proposed by Verizon.

III. DECISION

We have reviewed Verizon's filing as well as the comments submitted by the CLEC Coalition and Verizon. First, we find that the rates proposed by Verizon are consistent with the methodology adopted by the Commission in its earlier orders. This, however, does not complete our analysis. We question why it has taken Verizon over six months to discover these errors, some of which relate to items questioned by the Hearing Examiner in March, 2002. Specifically, Commission Staff questioned Verizon personnel regarding the "ICB" (individual case basis) designations as well as the blank spots in the matrix and were told those designations were correct. Now Verizon claims mistakes were made.

The "mistakes" Verizon claims were made fall into four categories. First, there are mistakes involving use of the wrong number in the spreadsheet (Service Connection – CO Wiring, Service Connection Other TOPS Trunk Port – Normal and Expedited); these mistakes can be traced back to the original cost study. While we would have preferred that these mistakes were caught back in March, we find that adopting the correct rates now does not prejudice any party because everyone was on notice of what was contained in Verizon's cost study.

The second and third categories of mistakes involve rates which the Commission inadvertently failed to fill in (Customer Misdirect In and Out – Expedited) or failed to calculate correctly (Additional Copies of Bills – Magnetic Tape and Magnetic Cartridge). Again, we find no prejudice because all parties were on notice of what Verizon proposed in its cost study.

The fourth category of mistakes involves rates which Verizon listed as ICB or N/A in its spreadsheets. Some of the rates were listed in its original cost study (Additional Copies of Bills – Paper, Diskette, CD ROM, and Splitter Support) but one was not (Meet Point C). This last category causes us the most concern because the Meet Point C rate was part of the interconnection rates approved in March but was not part of the original cost study. While we agree with Verizon that the Meet Point C rate should equal the switching rate, other parties have only had a limited opportunity to assess the appropriateness of this assertion. Further, we agree with the CLEC Coalition that CLECs are entitled to some finality of the rates. Despite these reservations, however, we find that Verizon's proposed rates do reflect the rates we intended to set in this proceeding. Specifically, it was our intention to set rates for all elements included in Verizon's cost study. To do so, we relied upon Verizon to populate a spreadsheet. Any mistakes in populating the spreadsheet were just that; they were not intentional steps taken by us to eliminate certain elements or set a rate of \$0.00, unless specifically noted. Further, we do not believe that any party will be prejudiced as all but one of the

rates are based on proposals contained in Verizon's cost studies. Thus, we will allow Verizon's proposed rates go into effect.

Dated at Augusta, Maine, this 21st day of October, 2002.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.